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Four: The "Business Improvement Districts" Revolution

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# BIDS: A QUIET REVOLUTION IN URBAN MANAGEMENT

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A quiet revolution is emerging in American cities, moving through downtown centers, main streets, and older commercial corridors, and changing the nature of urban management and revival. Since the mid-1980s thousands of property owners from San Diego to Portland, Maine have joined together to create new Business Improvement Districts (BIDs) in an effort to spark investment and economic development. The BID movement cuts across the grain of contemporary American politics by embracing higher taxes in the form of mandatory BID assessments. Since the Reagan era, political discourse has marched to the drumbeat of “no new taxes.” Yet each year thousands of property owners and businesses, quietly and intentionally, shell out tens of millions of dollars in extra taxes in hopes of enhancing the value of their property.

## **The Mall Model**

There is also something slightly subversive in the way decaying downtowns, soundly defeated by the triumph of the suburban mall, have incorporated some of the strategies utilized by the malls to fight their way back into a competitive economic position. The BID model is a variation of the common area maintenance (CAM) provisions found in most leases in suburban shopping malls where tenants are required to pay an extra fee for enhanced services such as maintenance and security within the mall.<sup>1</sup> BIDs are based upon the benefit assessment model in which private sector owners or businesses in a given district agree to assess themselves additional taxes that will be earmarked for services for that district. These tax revenues are controlled and managed not by the city, but by those who pay the assessments. The idea is to create a managed environment with services that enhance, rather than replace, those provided by municipal government.

Under the BID model the property owners identify the type of services they believe they need, determine the cost of these services, reach a consensus on what services they are willing to pay for, and create an assessment formula and a management plan to implement those objectives. The property owners or businesses then vote for or against the management plan with voting power determined by assessment. If a majority favors the plan, all property owners or businesses in the district are required to pay their assessment. Typically, BIDs provide daily sidewalk sweeping, graffiti removal, trash collection, security, social and human services, and marketing promotions. In other cases, BIDs manage parking and transportation in the district or new capital improvements such as street lighting, benches, or informational kiosks. In some cases, BIDs have bonding capacities that provide for bold capital improvements.

The results are impressive but not well known by the public at large. Indeed, apart from a handful of articles written in the last few years, scholarly literature on BIDs is only beginning

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<sup>1</sup> John McCloud, “Bidding for Success: BIDs are Helping Cities Compete with Malls,” *California Real Estate Journal*, May 1996, 16-19.

to appear.<sup>2</sup> Since BIDs are usually private non-profit groups that are not subject to the same regulation, oversight, and scrutiny imposed on municipal entities, much less information is routinely gathered regarding the functioning of BIDs. Yet the lack of information on BIDs has not hindered their growth. Today more than 1,000 BIDs are providing cleaning, security, and marketing services to supplement those provided by city governments. In doing so, BIDs have been important tools in halting a long slide toward economic decline in specific districts and transforming older areas into new opportunities for investment and redevelopment. Today the BID movement is widespread. “BIDs have become so much a part of economic revitalization that their absence in a large business district is increasingly rare,” said urban development expert Lawrence Houston, Jr.<sup>3</sup>

### BID History

Historians might see the precursors of BIDs in the dikes of Netherlands (those closest to the sea paid the highest assessments) or the sea walls of Great Britain. But most observers trace the first BID in North America to Toronto’s Bloor West Village district where a merchant named Alex Ling in 1965 led a movement of businesses to counter the threat of new shopping mall by agreeing to tax themselves to improve the area. Within a decade, more than 150 BIDs were functioning in the province of Ontario.<sup>4</sup> A similar model was used by the city of New Orleans in 1975 to provide extra police protection, sanitation services, and capital improvements in sidewalks and pedestrian malls.<sup>5</sup>

In the 1980s the BID movement swept through Manhattan with a clean and safe program that improved the environment and sparked new investment that led to the city’s urban revival. The successes of Manhattan’s Bryant Park, Times Square, and 42<sup>nd</sup> Street have often been attributed to the policies of Republican mayor Rudolph Giuliani and a tougher attitude by police on “quality of life” issues. But in fact nearly 40 BIDs with multi-million dollar annual budgets are busy throughout the borough, cleaning sidewalks, maintaining security, and providing capital improvements.<sup>6</sup>

### The BID Comes to California

California was a latecomer to the BID movement. Although tenant-based assessment districts have been used for decades, enabling legislation for property-based BIDs was only

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<sup>2</sup> On the activities of various BIDs, see Lawrence O. Houston, Jr., *Business Improvement Districts*, Urban Land Institute, 1997. Strategies for establishing BIDs are discussed in M. Bradley Segal, “Business Improvement Districts: Tool for Economic Development,” *Management Information Service Report*, International City/County Management Association, volume 29, number 3, March, 1997. Interaction between BIDs and local government from a legal perspective is treated in Richard Briffault, “A Government for Our Time? Business Improvement Districts and Urban Governance,” *Columbia Law Review*, March 1999. For a survey of the functions of BIDs and the roles of Executive Directors, see Jerry Mitchell, “Business Improvement Districts and Innovative Service Delivery,” PricewaterhouseCoopers Endowment for the Business of Government, November 1999.

<sup>3</sup> Lawrence O. Houston, Jr., “BIDs Growing Pains,” *Urban Land*, February 2000, 65.

<sup>4</sup> Houston, *BIDs*, 7.

<sup>5</sup> Mickey Lauria, Robert K. Whelan, Alma H. Young, “The Revitalization of New Orleans,” in Fritz W. Wagner, Timothy E. Joder, and Anthony J. Mumphrey, Jr., eds, *Urban Revitalization: Policies and Programs*, Sage, Thousand Oaks, California, 1995. 110-111.

<sup>6</sup> See the case study on Time Square in Houston, *BIDs*, 120-132.

enacted in 1995.<sup>7</sup> Property owners in Los Angeles' garment district formed the first BID in 1996 with the creation of the Fashion District. That same year a number of downtown business leaders traveled to the International Downtown Association meeting in Miami to meet with specialists in creating BIDs. That meeting jumpstarted the BID movement with the creation, two years later, of the Downtown Center BID and the Figueroa Corridor BID. Since then, several other BIDs have formed in downtown LA including the Industrial District, the Historic Core, and the Toy District. These six BIDs have annual budgets totaling more than \$10 million and cover 255 blocks in downtown Los Angeles.<sup>8</sup> Other BIDs are in formation in the South Park and Chinatown districts of downtown Los Angeles. At the same time the BID movement has spread to the Westside and the San Fernando Valley. In November 1999, California led the nation in BIDs with 73 (followed by New York State at 63).<sup>9</sup>

### The BID Impact

The importance of BIDs is readily evident in downtown Los Angeles. With annual budgets totaling more than \$15 million, the BIDs have implemented clean and safe programs that have laid the basis for new investment and exciting initiatives that are creating a new sense of "place" for downtown Los Angeles. The Fashion District, on the skids in the early 1990s, is booming today.<sup>10</sup> Creation of the downtown BIDs was a factor that helped convince the owners of the Kings and Lakers to place the sports arena (now the Staples Center) in the Figueroa Corridor.

A study of the Downtown Strategic Plan of 1993, undertaken by UCLA students, commented that with respect to security and maintenance, "significant progress has been made toward turning downtown around. The success of these initiatives is due to broad-based support for clean and safe programs, primarily by BIDs."<sup>11</sup> As a demonstration of the effectiveness of BIDs in the downtown Los Angeles, the UCLA students compared the east and west sides of Hill street between 9<sup>th</sup> Street and Olympic. On the east side, the BID community ambassadors made their regular rounds, serving as the eyes and ears for the police, answering question for pedestrians or motorists. Meanwhile the clean teams kept the sidewalks free of debris with trash bins, adorned by the Fashion District BID logo, located on every corner. The small garment-related shops were open for business and were busy. On the west side of the street, beyond the reach of the BID, graffiti covered the boarded up storefronts. Trash and debris littered the sidewalks. Homeless people defecated and urinated in the doorways and corners while several others slept on the sidewalk partially covered by cardboard boxes.

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<sup>7</sup> On California's law see International Downtown Association, "Establishing Property-Based Business Improvement Districts in California," Washington, DC, 1996.

<sup>8</sup> *Los Angeles Business Journal*, May 7, 2001, 30-32.

<sup>9</sup> Mitchell, *BIDs*, 15.

<sup>10</sup> Bob Pool, "Collaring Crime," *Los Angeles Times*, November 21, 1996, Joel Kotkin, "A Casbah for Clothes is Bustling in California," *New York Times*, August 20, 2000 and "Downtown Happening," *Womens Wear Daily*, August 21, 2000.

<sup>11</sup> UCLA School of Public Policy and Social Research, "The Downtown Strategic Plan and Downtown Los Angeles," 1999, 4-5.

## **Current Practice**

Today 49 states and most Canadian provinces have passed enabling legislation for BIDs (or similar organizations using a variety of acronyms). Most state legislation relies on a two-stage process. Property owners present evidence of their interest to the city and a petition process takes place to determine the wishes of the property tax payers. If the results are positive, the matter usually goes to the city for final approval. In California, a second vote by property owners is required before the BID is finally established. Behind the scenes, however, a more interesting dynamic takes place as property owners and businesses discuss among themselves whether or not to raise their taxes. This is done through focus groups and various types of discussions aimed at producing a consensus on a management plan that can be voted on by all property owners. In nearly all cases, BIDs are successful because a core group of property owners emerge to lead the rest of the group. But the process always generates sharp debate and along the way the property owners and businesses learn to work together more effectively.

One of the first steps is to determine the BID's boundaries. Most BIDs are created on the basis of land use by including commercial and business properties and excluding residential areas. BID boundaries usually follow geographic or historical boundary lines. In cases where a particular property owner or owners are known to oppose the BID, the boundaries will be drawn around that sub-area. Once the boundaries have been determined, the property owners discuss which specific services they feel are needed. Usually safety and maintenance issues are considered most important, following by marketing efforts.

Discussions are conducted about the type of security and maintenance that is needed and the number of days and hours of coverage that are desired. Then the discussion focuses on the formula for assessment. In many states BID assessments are based upon the tax assessment values. But in California, because of Proposition 13, the methodology is more complicated. Each BID has a unique formula for assessment of the BID tax. The Fashion District in Los Angeles uses a formula based on building square footage, with different rates for first floor footage and different rates in different sub-areas. The Figueroa Corridor BID uses a formula based on street frontage where Figueroa property owners pay a higher rate than Flower Street property owners because their properties command a higher rental rate. Once the assessment formula has been decided upon, the cost of services is estimated, applied to the assessment formula, and returned to the property owners for their consideration of what the new assessment would cost each of them. At this point the property owners typically react with shock, complaining that they could never afford such a tax increase. Typically, the proposed services are then scaled back and, at the same time, further adjustments to the assessment formulas are made to accommodate the group's concerns. This process continues until a consensus is finally reached.

## **BID Status**

Although BIDs are private organizations, they are ultimately created through a resolution or ordinance by the municipality and thus can be considered to be a public-private partnership or

quasi-governmental entity. Governance usually resides in an advisory committee of property owners and businesses and, in some cases, tenants or representatives of elected officials who serve in an *ex-officio* status. Board seats can be designated by geography or type of property to reflect the unique character of the district. Many states provide “sunset laws” to establish the number of years a BID may be in existence. The sunset laws often make it easier to convince property owners to try the new experiment. In California, the first wave of BIDs is about a year away from the completion of their first five-year terms and preparations are underway to determine whether or not property owners are interested in renewing the BID. This process will replicate the original organizing strategy of focus groups, discussion, and reaching for a consensus on policies and economics.

The success of BIDs has raised a number of new issues that are being grappled with by property owners, city officials, and politicians. For example, BIDs are private organizations that often perform services that are generally undertaken by city services. Under the assessment concept, only those who benefit, pay, and only those who pay, benefit. What role should the public play in managing or planning of districts? And what role is there for residents and tenants that, because they do not pay into the BID, are not voting members? As the BIDs have developed, they have confronted these issues in a number of ways. For example, a legal challenge to the Hollywood BID claimed that since the City had resolved to bring BIDs into existence, the BIDs were not private entities but “public agencies” and their board members were “public officials,” not private citizens. Under this interpretation, all the BID board members would face the same reporting and conflict of interest requirements as all elected officials. When an appellate court upheld this interpretation, BID board members complained that the court’s action would destroy the BID movement. As Assemblymember Jackie Goldberg noted, “This uncertainty would have created a powerful disincentive to invest in our downtowns in terms of creating and renewing BIDs.” Under a compromise crafted at the state level by the California BID Coalition, the California Newspapers Association, the League of California Cities, and the First Amendment Coalition, the legislature passed Assembly Bill 1021 in July 2001. The new law makes it clear that BIDs remain private entities but adds that they must comply with the Brown Act (Open Meeting Law) and the California Public Records Act. Today, all BIDs are in conformity with the Brown Act.

In addition, most BID board of directors now include some representation from non-property owners, some with voting power. In the Figueroa Corridor BID, for example, one board member slot is reserved for a tenant and another slot is allocated for a social service provider with *ex officio* status for representatives from two city council districts, Los Angeles Police Department, Exposition Park Police, and the USC Protection and Security. Other BIDs have similar arrangements to add board members besides property owners in order to reflect the composition of their districts. Yet it also seems clear that most BIDs will not allow non-paying members to make vital decisions regarding the BID. Indeed, under the law it is doubtful that anyone besides the actual taxpayers could make binding decisions regarding the assessment or disbursement of funds.

In a way the BIDs function somewhat like professional associations or labor unions. The members pay, they elect their own leaders, and they make their policies without much outside interference. They decide on how much they will pay and which vendors they will contract with

for services. Once a majority votes for the management plan and assessment formula is obtained, every property owner, even those who may have been opposed, will be assessed. There are no free riders and costs remain relatively low because all property owners participate. Those who fail to pay their BID assessments will be penalized and the city will place a lien on their property until the taxes are paid.

### **BID Politics**

Until recently public officials have welcomed the formation of BIDs because they brought private sector funding and expertise to financially beleaguered districts in decline. Yet the success of BIDs has alarmed some officials who feel they are being partially displaced by non-elected business leaders. This has led some politicians to demand more control over their formation and decision-making. One of the most significant manifestations of this type of conflict took place in a stronghold of BID power, New York City, in 1999. As the BIDs have grown, they have become more active in new areas. In New York, BIDs have the capacity to issue their own bonds with a bond rating that was even better than the city. In 1999, three large midtown BIDs directed by Dan Biederman issued \$50 million in debt offerings for new capital improvements, drawing criticism from Mayor Rudolph Giuliani who complained that the BIDs were acting as “governments onto themselves.” It didn’t help that Biederman enjoyed a reputation as the “Mayor of Midtown” and earned a salary higher than the real mayor. In response, Giuliani revoked the power of BIDs to issue bonds in the future and, during city budget deliberations, held hostage the budget of the Grand Central Partnership BID until Biederman resigned.<sup>12</sup>

Other indications of potential conflict between BIDs and city officials, at a much smaller level, could be noted in Los Angeles. While nearly all city council members have been supportive of BIDs and have tended to accept the names of those wishing to participate in the BID’s boards of directors, former Councilmember Michael Feuer demanded that all names be submitted for his approval prior to being named as board members. This demand infuriated many of the BID leaders in Los Angeles who feared that other councilmembers might follow suit in an effort to take control of the BIDs. Although BIDs are not involved in political activity, this issue reverberated inside the downtown business community and may have been a factor in the recent election for City Attorney as influential people moved away from Feuer and into the camp of eventual winner, Rocky Delgadillo. Despite these cases, most public officials support BIDs, not only because they bring large amounts of private investment into their districts, but also because they introduce a new level coherence by organizing property owners into a single, well-defined entity.

### **The Future of BIDs**

Today’s BIDs are woven so deeply into the new fabric of urban America that it is difficult to see a future without them. To date, no property-based BID formed in the United States has decided against renewing itself once its term has expired. Instead, BIDs have continued to expand into new service areas and new BIDs are forming in smaller cities and towns, reshaping main streets and commercial corridors in a dynamic and quiet revolution. Given the Fiscal pinch now being felt by state and local governments in California, the BID approach is likely to be essential to maintenance of neighborhood economic vitality.

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<sup>12</sup> Christopher Swope, “Bidding for Power,” *Governing*, October 1999, 28-30.

